

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LABORERS' PENSION FUND, et al.,)	
Plaintiffs Judgment Creditors,)	
v.)	
)	
MIDWEST BRICKPAVING, INC., an)	
Involuntarily dissolved Illinois corporation, and)	
JOEL ELFERING, individually and d/b/a)	
MIDWEST BRICKPAVING, INC.,)	Case No. 08 C 2565
Defendants Judgment Debtors,)	
and,)	Judge St. Eve
)	
AMERICAUNITED BANK and TRUST)	
COMPANY USA,)	
Third Party Citation Respondent.)	

MOTION FOR TURNOVER ORDER

Plaintiffs Laborers' Pension Fund and Laborers' Welfare Fund of the Health and Welfare Department of the Construction and General Laborers' District Council of Chicago and Vicinity, and James S. Jorgensen, (hereinafter collectively referred to as "Funds"), by and through their attorney, Jerrod Olszewski, hereby move for a Turnover Order directing Third Party Citation Respondent AmericaUnited Bank and Trust Company USA to turn over the amount of \$14,882.32 in full satisfaction of the Judgment entered by this Court on June 23, 2008. In support of this Motion, Plaintiffs state as follows:

1. On June 23, 2008, this Court entered judgment in Funds' favor and against Defendants Midwest Brickpaving, Inc. and Joel Elfering, joint and severally, in the amount of \$14,882.32. The remaining balance owed on the judgment is \$14,882.32.
2. A Citation to Discover Assets was issued against AmericaUnited Bank and Trust Company USA on July 8, 2008, naming Defendants as the Judgment Debtors. The Citation was served on AmericaUnited Bank and Trust Company USA on July 10,

2008. A true and accurate copy of the Citation is attached hereto as Exhibit A.

3. Third Party Citation Respondent AmericaUnited Bank and Trust Company USA responded on July 11, 2008, indicating that it was holding funds in the amount of \$14,882.32 pursuant to the Citation. A true and accurate copy of AmericaUnited Bank and Trust Company USA's Citation Answer is attached hereto as Exhibit B.

4. Accordingly, Plaintiffs request that this Court order Third Party Citation Respondent AmericaUnited Bank and Trust Company USA to turn over the amount of \$14,882.32 currently being held by it pursuant to Citation, to the Funds in full satisfaction of the Judgment entered by this Court on June 23, 2008.

WHEREFORE, Plaintiffs respectfully request that this Court enter a Turnover Order directing AmericaUnited Bank and Trust Company USA to turn over the amount of \$14,882.32 to the Funds in a check made payable to "Laborers' Pension Fund" in full satisfaction of this Court's June 23, 2008 Judgment.

July 14, 2008

Respectfully submitted,
Laborers' Pension and Welfare
Funds

By: /s/ Jerrod Olszewski

Jerrod Olszewski
Office of Fund Counsel
111 W. Jackson Blvd., Suite 1415
Chicago, IL 60604
(312) 692-1540

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)
AMERICAUNITED BANK and TRUST)
COMPANY USA,)
Third Party Citation Respondent.)

Case No. 08 C 2565

Judge St. Eve

THIRD PARTY CITATION TO DISCOVER ASSETS

Address of Judgment Debtors:	Name and Address of Attorney for Judgment Creditors
Midwest Brickpaving, Inc.	Jerrold Olszewski, Office of Fund Counsel
18557 State Line Rd.	LABORERS' PENSION AND WELFARE FUNDS
Antioch, IL 60002	111 W. Jackson Blvd., Suite 1415
	Chicago, IL 60604
Joel Elfering	
18557 State Line Rd.	
Antioch, IL 60002	

Amount of Judgment: \$14,882.32 (Judgment Order dated June 23, 2008)

TO: AmericaUnited Bank and Trust Company USA, c/o Citation Lien/Legal Department,
321 W. Golf Road, Schaumburg, IL 60196

Return date and time: Tuesday, July 29, 2008 at 1:00 p.m.

Location: Laborers' Pension and Welfare Funds, Office of Funds Counsel, 111 W. Jackson
Blvd., Suite 1415, Chicago, IL 60604, (312) 692-1540

**YOUR FAILURE TO APPEAR AS HEREIN DIRECTED MAY CAUSE YOU TO BE
ARRESTED AND BROUGHT BEFORE THE COURT TO ANSWER TO A CHARGE
OF CONTEMPT OF COURT, WHICH MAY BE PUNISHABLE BY IMPRISONMENT**



THIRD PARTY DEPONENTS: YOU MAY NOT NEED TO APPEAR. Plaintiffs reserve the right to take the Citation deposition, but may discharge you from appearing upon review of the documents requested. Please contact Plaintiffs' attorney to discuss fees, if any, for documentation requested prior to copying and sending documents.

THIS COURT HAS ISSUED A CITATION AGAINST the person or party named above. This Citation directs you to appear before the above named attorney for the Plaintiffs, at 111 W. Jackson Blvd., Suite 1415, Chicago, IL 60604 on the return date stated above, to be examined under oath concerning the indebtedness owed to the Plaintiffs. This Citation is issued on the basis of a judgment against the Judgment Debtor in favor of the Judgment Creditors in the amount stated above. On or after the return date stated above, the Court may compel the application of any discovered income or assets toward payment on the judgment.

At the examination, you are commanded to produce with respect to the Judgment Debtor the following:

Any funds held by the Judgment Debtor and, should there be no funds, all documents reflecting the financial status of the Judgment Debtor.

YOU ARE PROHIBITED from making or allowing any transfer or other disposition of or interfering with any property not exempt from execution or garnishment belonging to the Judgment Debtor to which the Judgment Creditors may be entitled or which may be acquired by or become due them and from paying over or otherwise disposing of any money not so exempt, which is due or becomes due to him until the further order of Court or termination of proceedings. You are not required to withhold the payment of any money beyond double the amount of the judgment.

The amount of income or assets that may be applied toward the judgment is limited by

Federal and Illinois law. THE JUDGMENT DEBTOR HAS THE RIGHT TO ASSERT STATUTORY EXEMPTIONS AGAINST CERTAIN INCOME OR ASSETS OF THE JUDGMENT DEBTOR WHICH MAY NOT BE USED TO SATISFY THE JUDGMENT IN THE AMOUNT STATED ABOVE:

(1) Under Illinois or federal law, the exemptions of personal property owned by the debtor include the debtor's equity interest, not to exceed \$4,000 in value, in any personal property as chosen by the debtor; Social Security and SSI benefits; public assistance benefits; unemployment compensation benefits; workers' compensation benefits; Veterans' benefits; Circuit Breaker property tax relief benefits; the debtor's equity interest not to exceed \$2,400 in value, in any one motor vehicle, and the debtor's equity interest, not to exceed \$1,500 in value, in any implements, professional books, or tools of the trade of the debtor.

(2) Under Illinois law, every person is entitled to estate in homestead, when it is owned and occupied as a residence, to the extent in value of \$15,000, which homestead is exempt from judgment.

(3) Under Illinois law, the amount of wages that may be applied toward a judgment is limited to the lesser of (i) 15% of gross weekly wages or (ii) the amount by which disposable earnings for a week exceed the total of 45 times the Federal minimum hourly wage or, under a wage deduction summons served on or after January 1, 2006, the Illinois minimum hourly wage, whichever is greater.

(4) Under Federal law, the amount of wages that may be applied toward a judgment is limited to the lesser of (i) 25% of disposable earnings for a week or (ii) the amount by which disposable earnings for a week exceed 30 times the Federal minimum hourly wage.

(5) Pension and retirement benefits and refunds may be claimed as exempt under Illinois law.

The Judgment Debtor may have other possible exemptions under the law.

THE JUDGMENT DEBTOR HAS THE RIGHT AT THE CITATION HEARING TO DECLARE EXEMPT CERTAIN INCOME OR ASSETS OR BOTH. The Judgment Debtor also has the right to seek a declaration at an earlier date by notifying the clerk in writing at the office of

the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, 219 South Dearborn Street, 20th Floor, Chicago, Illinois 60604. When so notified, the Clerk of the Court will obtain a prompt hearing from the Court and will provide the forms that must be prepared by the Judgment Debtor and sent to the Judgment Creditors and the Judgment Creditors' attorney regarding time and location of hearing. This notice may be sent by registered or first class mail regarding time and location of the hearing. This notice may be sent by registered or first class mail.

Michael W. Dobbins
CLERK OF COURT

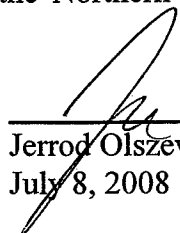

DEPUTY

July 8, 2008

DECLARATION AND CERTIFICATE OF JUDGMENT CREDITORS

I, Jerrod Olszewski, attorney for the Judgment Creditors, certify to the Court under penalties As provided by law pursuant to 735 ILCS 5/1-109, that the following is true:

1. Judgment Amount: \$14,882.32
2. Balance Due: \$14,882.32
3. Date of Judgment: June 23, 2008
4. Case Number: 08 C 2565
5. Court Name: U.S. District Court for the Northern District of Illinois, Eastern Division.


Jerrod Olszewski
July 8, 2008

Jerrod Olszewski
Laborers' Pension and Welfare Funds
Sub Office, 111 W. Jackson Blvd.
Suite 1415
Chicago, IL 60604
(312) 692-1540, FAX (312) 692-1489



AMERICAUNITED BANK

and Trust Company USA

321 W. Golf Road
Schaumburg, IL 60196
(847) 882-4000

July 11, 2008

Jerrod Olszewski
Office of Fund Counsel
Laborers' Pension and Welfare Funds
111 W. Jackson Blvd., Suite 1415
Chicago, IL. 60604

Re: Citation No. 08 C 2565
Midwest Brickpaving, Inc.

Dear Mr. Olszewski:

Please be advised that AmericaUnited Bank and Trust Company USA has an open deposit account for the above named defendant. At the current time we are holding the full amount of this citation, which is \$14,882.32.

Should there be any questions please do not hesitate to contact us.

Sincerely,

Jovana Blagojevic
Operations Associate



1300 E. Irving Park Road, Streamwood, IL 60107
(847) 882-4000 (630) 372-0534 (Fax)

58 E. Northwest Highway, Des Plaines, IL 60016
(847) 699-1700 (847) 699-5796 (Fax)

Member FDIC



485 Lake Street, Antioch, IL 60002
(847) 838-2265 (847) 395-4948 (Fax)

36044 N. Brookside Drive, Gurnee, IL 60031
(847) 662-2265 (847) 662-6951 (Fax)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RECEIVED

JUL 10 2008

AMERICA UNITED BANK

By _____

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AMERICAUNITED BANK and TRUST)
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Antioch, IL 60002	111 W. Jackson Blvd., Suite 1415
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Joel Elfering
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- (2) Under Illinois law, every person is entitled to estate in homestead, when it is owned and occupied as a residence, to the extent in value of \$15,000, which homestead is exempt from judgment.
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Michael W. Dobbins

CLERK OF COURT


DEPUTY

July 8, 2008

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Jerrod Olszewski

July 8, 2008

Jerrod Olszewski
Laborers' Pension and Welfare Funds
Sub Office, 111 W. Jackson Blvd.
Suite 1415
Chicago, IL 60604
(312) 692-1540, FAX (312) 692-1489

CERTIFICATE OF SERVICE

The undersigned attorney of record certifies that he caused a copy of the foregoing Motion for Turnover Order to be served upon the following persons via U.S. first class mail, postage prepaid, this 14th day of July, 2008:

Midwest Brickpaving, Inc.
18557 State Line Rd.
Antioch, IL 60002

Joel Elfering
18557 State Line Rd.
Antioch, IL 60002

AmericaUnited Bank and Trust Company USA
c/o Jovana Blagojevic, Operations Associate
321 W. Golf Road
Schaumburg, IL 60196

/s/ Jerrod Olszewski

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and,)	Judge St. Eve
)	
AMERICAUNITED BANK and TRUST)	
COMPANY USA,)	
Third Party Citation Respondent.)	

TURNOVER ORDER

This matter having come to be heard on Plaintiffs' Motion for Turnover Order, due notice having been given and the parties having an opportunity to be heard,

IT IS HEREBY ORDERED:

That the sum of \$14,882.32 being held pursuant to Citation by Third Party Citation Respondent AmericaUnited Bank and Trust Company USA be released and turned over to Plaintiffs Laborers' Pension Fund and Laborers' Welfare Fund of the Health and Welfare Department of the Construction and General Laborers' District Council of Chicago and Vicinity, and James S. Jorgensen, in a check made payable to the "Laborers' Pension Fund."

DATED: _____

ENTERED: _____

Honorable Amy St. Eve
U. S. District Court Judge